

SERVED: March 23, 2005

NTSB Order No. EA-5148

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 23rd day of March, 2005

_____)	
Petition of)	
)	
DAVID M. IRWIN,)	Docket NA-60
)	
for review of the denial by)	
the Administrator of the)	
Federal Aviation Administration)	
of the issuance of an airman)	
medical certificate.)	
_____)	

ORDER OF DISMISSAL

Petitioner has appealed from the law judge's October 29, 2004, "Order Not Accepting Petition for Lack of Jurisdiction," which was based on the absence of an appealable final denial of airman medical certification.¹ However, after petitioner filed his notice of appeal, the Federal Air Surgeon issued petitioner a final denial of his application for medical certification, finding him ineligible because of his "history of psychosis and paranoid schizophrenia." In light of this final denial, both petitioner and the Administrator moved to remand this case to the law judge for development of a record.

We note that, after both briefs had been filed in this case, petitioner filed a timely petition for review of the final denial, which was docketed as SM-4647. Further, the Administrator has filed an answer as well as a motion for summary judgment in that case. Thus, it appears that the petitioner's

¹ A copy of the law judge's decision is attached.

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challenge to the denial of his medical application is being processed and that, therefore, this case (NA-60) has been superceded by that one (SM-4647).

ACCORDINGLY, IT IS ORDERED THAT:

Petitioner's appeal is dismissed without prejudice.

ROSENKER, Acting Chairman, and CARMODY, ENGLEMAN CONNERS, HEALING, and HERSMAN, Members of the Board, concurred in the above order.